

institution received adequate consideration for the transfer of financial assets at the time of the transfer, and the documentation effecting the transfer of financial assets reflects the intent of the parties to treat the transaction as a sale, and not as a secured borrowing, for accounting purposes.

(d) Paragraph (b) of this section shall not be construed as waiving, limiting, or otherwise affecting the power of the FDIC, as conservator or receiver, to disaffirm or repudiate any agreement imposing continuing obligations or duties upon the insured depository institution in conservatorship or receivership.

(e) Paragraph (b) of this section shall not be construed as waiving, limiting or otherwise affecting the rights or powers of the FDIC to take any action or to exercise any power not specifically limited by this section, including, but not limited to, any rights, powers or remedies of the FDIC regarding transfers taken in contemplation of the institution's insolvency or with the intent to hinder, delay, or defraud the institution or the creditors of such institution, or that is a fraudulent transfer under applicable law.

(f) The FDIC shall not seek to avoid an otherwise legally enforceable securitization agreement or participation agreement executed by an insured depository institution solely because such agreement does not meet the "contemporaneous" requirement of sections 11(d)(9), 11(n)(4)(I), and 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(9), (n)(4)(I), 1823(e)).

(g) This section may be repealed or amended by the FDIC upon 30 days notice and opportunity for comment provided in the Federal Register, but any such repeal or amendment shall not apply to any transfers of financial assets made in connection with a securitization or participation that was in effect before such repeal or modification.

[65 FR 49191, Aug. 11, 2000]

PART 361—MINORITY AND WOMEN OUTREACH PROGRAM CONTRACTING

Sec.

361.1 Why do minority- and women-owned businesses need this outreach regulation?

361.2 Why does the FDIC have this outreach program?

361.3 Who may participate in this outreach program?

361.4 What contracts are eligible for this outreach program?

361.5 What are the FDIC's oversight and monitoring responsibilities in administering this program?

361.6 What outreach efforts are included in this program?

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§ 361.1 Why do minority- and women-owned businesses need this outreach regulation?

The purpose of the FDIC Minority and Women Outreach Program (MWOP) is to ensure that minority- and women-owned businesses (MWOBs) are given the opportunity to participate fully in all contracts entered into by the FDIC.

§ 361.2 Why does the FDIC have this outreach program?

It is the policy of the FDIC that minorities and women, and businesses owned by them have the maximum practicable opportunity to participate in contracts awarded by the FDIC.

§ 361.3 Who may participate in this outreach program?

For purposes of this part:

(a) *Minority* has the same meaning as defined by the Small Business Administration at 13 CFR 124.103(b).

(b) *Legal Services* means all services provided by attorneys or law firms (including services of support staff).

§ 361.4 What contracts are eligible for this outreach program?

The FDIC outreach program applies to all contracts entered into by the